IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3057 OF 2004

IN

NOTICE OF MOTION NO. 2534 OF 2002

IN

SUIT NO. 3039 OF 2002

Pradeep M. Sabnis ..Plaintiff

versus

Vithal G. Sabnis & Ors. ..Defendants

Ms. Usha Purohit for the Plaintiff.

Ms. Trupti Sanghvi i/b. M/s. Bhuta & Associates for the Defendants.

CORAM : D. G. DESHPANDE,J.

DATE : 1ST DECEMBER,2004.

P.C. :

. Heard learned counsel for the parties.

. This notice of motion is for restoration of Notice of Motion No. 2534 of 2002 which was dismissed in default on 16.7.2004. The notice of motion is strongly opposed by the Defendants on the ground that the plaintiff was negligent. She also

raised a contention that order of restoration is a final order, therefore the notice of motion should be placed before justice D. K. Deshmukh as per the present assignment.

. I do not think that notices of motion taken out for restoration are required to be transferred to Justice D. k. Deshmukh, they are part of the proceedings of the earlier notice of motion.

. Considering the explanation given, the notice of motion is allowed. Order of dismissal dated 16.7.2004 in Notice of Motion No.2534 of 2002 is set aside. Notice of Motion No. 2534 of 2002 is restored to file subject to plaintiff paying cost of Rs.500/= to the defendants within one week from today. Notice of Motion No. 3057 of 2004 disposed of accordingly.

. Notice of Motion No. 2534 of 2002 to appear on board after two weeks. Statusquo granted in the Notice of Motion No. 2534 of 2002 to continue.

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